

found that, while the parliamentary elections in 2005 generally complied with most of the OSCE commitments and other international standards, "they fell short of some that are central to a genuinely competitive election process", in particular "campaign conditions and access to media", confirming the "negative trends already noted in the 2003 local elections";

Whereas the Election Observation Mission found that the local elections held in June 2007 in Moldova were generally well administered but "fell short of a number of OSCE commitments central to a competitive electoral process", in particular by not fully respecting "the right of citizens to seek public office and equitable media access";

Whereas Freedom House, a non-profit, non-partisan organization working to advance the expansion of freedom, again in 2008 designated the political environment of Moldova as only "partly free";

Whereas political liberties and civil rights are key indicators of eligibility for support from the Millennium Challenge Corporation, an entity of the United States Government, which is now considering a sizeable grant for the economic and political development of Moldova; and

Whereas recent actions by entities of the Government of Moldova raise serious questions about the readiness of the Government of Moldova to break free from the unfortunate patterns established in the elections in 2003, 2005, and 2007 and to create the campaign conditions and access to media required for truly free and fair elections: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms the strong, mutually beneficial relationship that exists between the United States Government and the Government of Moldova;

(2) recognizes that the development of a genuinely democratic political system in Moldova is a precondition for the full integration of Moldova into the Western community of nations and the provision of assistance necessary to attain such integration;

(3) urges the Government of Moldova to meet its commitments to the Organization for Security and Co-operation in Europe, especially in respect to the conduct of elections, by guaranteeing—

(A) unimpeded access by all parties and candidates to public print, radio, television, and Internet media on a nondiscriminatory basis;

(B) the ability of independent media to cover campaigns on an unrestricted basis;

(C) the right of opposition candidates and workers to engage in campaigning free of harassment, discrimination, and intimidation; and

(D) adequate means for citizens of Moldova residing abroad to cast their ballots; and

(4) in light of the steps taken by the Government of Moldova, pledges the continued support of the United States Government for the establishment in Moldova of a fully free and democratic system, the creation of a prosperous market economy, and the assumption by Moldova of its rightful place as a full and equal member of the Western community of democracies.

be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. Con. Res. 13, the concurrent resolution on the budget, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Under the previous order, when the Senate resumes consideration of the budget resolution tomorrow, 90 minutes of the statutory time remains. Senators should expect the so-called vote-arama to begin around 11:30 a.m. tomorrow. Votes will occur in a stacked sequence with 2 minutes for debate prior to each vote. In addition, Senators should note that each vote after the first vote will be only 10 minutes in duration.

ORDER FOR ADJOURNMENT

Mr. DURBIN. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order, following the remarks of Senator SNOWE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. SNOWE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFICIT-NEUTRAL RESERVE FUND

Ms. SNOWE. Mr. President, I plan to offer an amendment tomorrow that I would like to discuss this evening very briefly because I do think it is an important matter as we consider the economic climate in which we find ourselves.

My amendment would create a deficit-neutral reserve fund that would extend the 2001 tax cut rates for small business owners so this tax increase does not subtract from the pool of capital that is going to be available to small business. As the Ranking Member of the Small Business Committee and senior member of the Finance Committee, I rise on this critical issue of taxation because I am deeply concerned about how proposed tax rate increases will harm small business capital formation.

There has been a significant debate about the effect on small business of raising tax rates on those making over \$250,000. I do not disagree with some of those efforts, but I do have a deep concern about the impact and the implications that it will have on small businesses and their ability to access affordable capital in this current economic downturn.

The expiration of these tax cuts enacted in 2001 and 2003 for couples making over \$250,000 will directly and indisputably affect small businesses. Hiking taxes from 33 to 36 percent and from 35 to 39.6 percent results in a 9-percent tax increase for either tax rate. So if the Government is subtracting 9 percent from small business owners, obviously, that suggests fewer resources will be available to reinvest in business.

As we know, access to capital is a constant struggle for America's small businesses, particularly at this time of a continuing credit crisis. We have seen the credit crunch that has had a direct effect on small businesses. Lines of credit have been denied. Access to capital is simply not available. Time and time again, we have heard from small businesses, and certainly that was true at a hearing we held recently in the Small Business Committee, because small business owners are saying repeatedly they have had considerable difficulty in being able to access credit from banks.

So we have a serious crisis because if we depend on small businesses to generate the jobs, which they do—70 percent of all the net new jobs in this country; half of all the private-sector employers, 70 percent of the nonfarm gross domestic product—then clearly we have to be concerned about the response of small businesses when we are raising the tax rates for those making over \$250,000.

We simply cannot increase taxes by 9 percent on small businesses and not expect that this tax hike will have an immediate effect on the amount of capital they re-invest in their business. I fear that in lieu of investing their own funds, small businesses will have to, obviously, turn to the frozen credit markets which clearly has impeded any ability of small businesses to secure capital.

Most recently, a Federal Reserve study demonstrated that 70 percent of banks have tightened loans to small businesses. Well, Chairman LANDRIEU of the Small Business Committee and I have been working to free up lending for small business owners. Recently, the President conducted a small business summit at the White House, and we heard directly from small business owners who said their lines of credit have simply dried up.

I know some of the banks have said, some of the TARP recipients said: Well, we are lending money. But the truth is, it is simply not happening. So there are numerous provisions in the stimulus package that I and Chair LANDRIEU had worked to insert because we thought it was important to make sure we took the steps to ensure a Main Street recovery, some of which were in the flagship SBA programs, the 7(a) and 504 programs, to reduce or eliminate the lenders' and borrowers' fees which are going to be instrumental to allowing banks to more freely loan money to small businesses because

ORDERS FOR THURSDAY, APRIL 2, 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Thursday, April 2; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour

these are the key lending programs. We also provided for a 90-percent guarantee under the 7(a) program for any of the loans that are issued. In the stimulus package, I was able to secure a provision that will allow small businesses to make quarterly estimate tax payments of 90 percent of their 2008 tax liability rather than 110 percent estimated tax payments. That is important to ensure there is available capital for small businesses, to ease the credit flow for small businesses so they can survive in this very serious economic downturn.

So we have done a number of things that are going to be so essential for the preservation and survival of small business in this very serious recession, which is the worst since the Great Depression.

We included a stabilization loan fund that will provide up to \$35,000 for small businesses that otherwise have been viable businesses but are having difficulty making their payments. So we want to ease the flow of capital on a monthly basis. So it gives them a life line, a bridge until they will be able to find a better economic climate in which to do business.

The fact is, credit is essential. Small businesses are vital because they are the job generators in America. Our economy is wholly dependent on the well-being and the health of small businesses. That is why the President—and I recommended and endorsed this idea—is going to use some of the TARP funds to buy small business loans in the secondary market, again, freeing up the capital, easing the pressures on many of the banks, so they can issue those loans in the secondary markets. And up to \$15 billion in TARP funds would be used. So again, it is another way of easing the credit restraints, but also to provide more liquidity in the markets so that small businesses are able to go about and continue to do their business.

We have to avert not only job losses in this economy, but primarily to make sure if we are going to do so, that we prevent small business owners from shutting their doors on Main Streets all across America.

The vast majority of businesses in this country are known as “flow-through” or “pass-through” businesses, meaning that the income from a business is taxable to the individual owner and is not taxed at the business unit level. The forms of ownership that fall into the definition of flow-through businesses are sole proprietorships, partnerships, and S corporations. According to the Small Business Administration, flow-through businesses represented 93 percent of all small businesses in 2004. And specifically, there were 19.2 million sole proprietorships, representing 72 percent of all businesses; 2.3 million partnerships, representing 9 percent of businesses; and 3.3 million S corporations, representing 12 percent of businesses. And we consider this to be an incomplete snapshot

of all small businesses because there are roughly another 2 million small C corporations, representing 7 percent of small businesses, that pay taxes both at the business level and individual level when profits are distributed.

The point is, that small businesses are critical. They pay the individual tax rate. That is the problem with allowing the tax rates to expire from the 2001 and 2003 tax bills, for those small businesses that are earning more than \$250,000.

The data provided earlier this week from the Joint Committee on Taxation shows that 6.5 percent of business owners—as defined by individuals receiving flow-through income, as I mentioned earlier, who pay the individual tax rate—will see their taxes increased as a result of this major tax hike. This is in stark contrast to those critics who have said it is only going to be 2.2 percent of taxpayers who will be affected by this tax increase. But yet Joint Tax shows it is almost three times what they indicated. But more importantly, it is the amount of income that these small businesses generate in our Nation's economy.

The Joint Committee on Taxation data reinforces a 2007 Treasury study that demonstrated among taxpayers whose flow-through income amounted to at least 50 percent of their wages—clearly indicating the primary business owner—that 9 percent earned 69 percent of total flow-through income but paid 81 percent of the taxes on it. So 9 percent earned 69 percent of this small business income and they paid 81 percent of the taxes on it. That is the problem because we are going to directly increase taxes on those small businesses that generate the preponderance of the income from small businesses in America.

Now, I drew on this Treasury study to help craft my amendment which targets not the passive investor in small business but the individual who is really earning their keep from small businesses. My amendment uses the definition of “small business” as determined by the Small Business Administration.

I want to highlight one form of business ownership in particular, and that is the S corporation because this form of ownership represents small firms that have graduated past the “kitchen table” stage of business and have employees. Again, the Joint Committee on Taxation data indicates that in 2006, 22 percent of taxpayers who earned income from S corporations were making more than \$250,000. Furthermore, a new study—a very recent study—from the SBA Office of Advocacy demonstrated there were roughly 3.3 million S corporation returns filed for 2004 and by the industry sector, the most prevalent, were wholesale and retail trade.

So, in essence, these are the Main Street businesses, the retailers, the construction firms, the manufacturers, the job generators of this economy. We cannot subtract another 9 percent from their income and think it is not going

to affect—not only them but our Nation's economy. We have to do everything we can to nurture and cultivate an environment in which small businesses can survive during this economic crisis. We need to be fostering that environment, not increasing taxes on small businesses at the very time when they need more capital just to get by.

A recent SBA study noted that half of all small business income is earned by businesses organized either as a partnership or an S corporation, despite the fact that they constitute only about 20 percent of business units. So it is critical that we evaluate this particular provision. When we are talking about allowing the expiration of the tax rates in 2001 and 2003, we have to consider and evaluate it specifically on how it will affect the health and the well-being of small businesses in America's economy.

Small businesses as job generators have been underappreciated and unrecognized. They have been the unsung heroes of our economy, even prior to this recession. I think we have to be wholly attentive to the role they play in our Nation's economy. After all, there are 27 million small businesses in America today. We have to ensure their survival. The way we can do it is to consider the policies enacted and how they directly have an effect on small businesses, whether it is by increasing regulation, diminishing the availability of credit, or by raising taxes, all of which have a collective effect on the well-being and effectiveness of small businesses.

I think it is rather ironic that on one hand we are doing everything we can through the stimulus, through the TARP funds to make credit available, and then on the other hand we are subtracting from it by raising the tax rate. Some say we are only deferring that; it is 2 years away. But small businesses have to plan for the future. The net effect will be that they will constantly retrench in anticipation that their tax rates are going to rise, which only stands to reason. It is a logical response. It certainly will change their behavior today as a result of what they can expect in the future.

So suggesting that somehow deferring it 2 years out will make it better is not an answer. We don't have any prognostications in terms of what this economy is going to look like in 2 years, we still will have high rates of unemployment. It is going to be a slow path forward toward recovery, and we will be depending on small businesses to ultimately lead the way out of this recession and to pave the way forward toward a recovery. So because we are dependent on small businesses, then we have to consider very carefully the impact that raising tax rates will have on small businesses in America.

So when some say that tax increases would not have an impact today, but it will in 2 years, I answer that it will have an impact today because business

owners will just defer investment in a plant. They will defer other investments. They will defer hiring. They may lay off, given the current climate, to be sure, but also in anticipation of the future, knowing that they will have to pay increased taxes.

A tax increase of this magnitude alters economic behavior. It alters capital formation indisputably. So on this issue alone I think it is very critical that we be circumspect and cautious in terms of how we approach it.

That is why the amendment I will offer tomorrow will create a deficit-neutral fund so we can be sure that we do not have these sorts of tax increases that will be directly imposed on small businesses. I hope the Senate will support this amendment. It is specific and targeted toward small business owners so this tax increase doesn't affect them, it doesn't affect their behavior, either now or into the future, and ensures that there is a pool of capital so they can continue to do business and, hopefully, be able to survive and overcome the hurdles this economic climate represents.

The Small Business and Entrepreneurship Council recently stated the

higher the marginal tax rate, the higher the relative price for additional work and risk taking, and that high tax rates discourage economic activity. I know a number of organizations have conducted their own surveys, and I think it is illustrative again of the problems that will confront small businesses as a direct result of this specific tax increase.

There was a poll conducted by Gallup for the National Federation of Independent Businesses, otherwise known as NFIB. When surveyed, 21.7 percent of small business owners who employ 220 to 249 employees responded that the income earned from their businesses would be greater than \$250,000. That bears reiterating. More than 20 percent of small businesses stated that they would have income greater than \$250,000. This data certainly comports with the data provided by the Joint Committee on Taxation regarding partnership income and S corporation income.

Even more striking was the response from other small businesses where they indicated it would certainly have a detrimental impact when they were asked about their total household income

from all sources, and 40 percent of these entrepreneurs, with 20 to 249 employees, responded that their household income would be greater than \$250,000. In either survey question, this cohort was the largest response group of any income group or size of employer and is indicative that successful small businesses are precisely the group that is most likely to face increased taxes if the top two marginal tax rates again rise to 36 and 39.6 percent because the net result is they will pay a 9-percent tax increase.

So I hope the Senate will endorse my amendment when I offer it tomorrow.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 8:56 p.m., adjourned until Thursday, April 2, 2009, at 10 a.m.